* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ **Crl. M.C. No. 2509/2006**

% Date of Decision: 26th November, 2007

\# **Gurmeet Singh Sawhney** .....Petitioner

! Through Mr. Jayant Sood, Advocate

versus

$ **State of NCT of Delhi & Anr.** ..... Respondents

^ Through Mr. Sanjay Lao, APP for the State.

Mr. Rishi Sethi, Advocate for Respondent no.2.

AND

\+ **Crl. M.C. No. 2512/2006**

\# **Gurmeet Singh Sawhney** .....Petitioner

! Through Ms. Jayant Sood, Advocate

versus

$ **State of NCT of Delhi & Anr.** ..... Respondents

^ Through Mr. Sanjay Lao, APP for the State.

Mr. Rishi Sethi, Advocate for Respondent no.2.

CORAM:

* **HON'BLE MR. JUSTICE P.K.BHASIN**

1. Whether Reporters of local papers may be allowed to see the judgment?(No)

2. To be referred to the Reporter or not?(No)
3. Whether the judgment should be reported in the digest?(No)

JUDGMENT

P.K.BHASIN, J:

The petitioner by these petitions under Section 482 of the Code of Criminal Procedure, 1973 has sought quashing of FIRs no. 404/2002 and 405/2002 for the offences under Sections 406/420/467/468/471/34 of Indian Penal Code ('I.P.C.' in short) both registered on 28.10.2002 at Adarsh Nagar Police Station against him and some other persons and the criminal proceedings also emanating therefrom pending in the Court of Metropolitan Magistrate, Rohini Courts. Since these petitions were filed after the dispute between the petitioner and the respondent no. 2-complainant had been compromised and were taken up together for hearing, I shall dispose them of by this common judgment.

2. The relevant facts are that the respondent no. 2-complainant, a company engaged in the business of financing transport and commercial vehicles filed two criminal complaints against some persons including the petitioner herein for the commission of offences punishable under Sections 403/ 406/ 420/ 467/ 468/ 471/ 477A/ 120B/ 34 I.P.C. The Metropolitan Magistrate directed the police to register FIR pursuant to which the aforesaid two FIRs were registered. After completion of investigation charge sheets were filed in the Court against the

petitioner and one Anup Kumar Soni.

3. The prosecution case is that the petitioner was the Divisional Manager of the respondent no. 2 and his co-accused Anoop Soni was the Branch Manager at the complainant Company's Azadpur Branch during the relevant period. They were authorised to advance finance for transport vehicles to genuine customers after proper verification of the documents furnished by the customers. These two FIRs were lodged by the complainant when it was found that the two charge-sheeted accused had cheated the Company of Rs. 2,40,000/- (in both the cases) by extending finance to non existent persons and for non existent vehicles after preparing false documents.

4. During the pendency of the cases in Court the petitioner has resolved the dispute and has arrived at an amicable settlement with the complainant and the parties have executed a compromise deed dated 26.05.2007, copy of which has been placed on record and in view of that compromise these petitions have been filed for quashing of the two FIRs and the on going trial. Learned counsel for the petitioner submitted that since compromise has been arrived at between the parties no useful purpose would be served if the trial goes on. In support of this submission he placed reliance upon one judgment of the Apex Court in "***Nalini***

Shankaran & Ors. v. Neelkanth Mahadeo Kamble & Ors." 2007 (2) Crimes 329 (SC), and two judgments of this Court in "***Rishi Raj & Ors. v. The State" 2001 (2) JCC 234*** and "***Ajay Kumar & Ors. v. State & Ors." 131(2006)DLT 130.***

5. Notice of this petition was given to the State as well as respondent no. 2-complainant. Complainant filed affidavits of its authorized representative in both the petitions wherein it was affirmed that the dispute had been amicably resolved and that the complainant had no objection if the FIRs and the criminal proceedings arising therefrom are quashed. On 03.10.2007 learned counsel for the complainant also submitted that though the other accused has not filed a petition for quashing of the FIRs and two cases pending against him but even qua him FIRs and the two cases can be quashed since the dispute has been settled as a whole.

6. Learned APP for the State, however, opposed quashing of the FIRs on the ground that allegations against the petitioner and co-accused are grave in nature and the offences under which they are charged are not compoundable under Section 320 Cr.P.C. and so if these offences are permitted to be compounded that would amount to bye-passing the provisions of section 320 Cr.P.C. which should not be done by this Court by exercising the inherent jurisdiction vested in it under Section 482 Cr.P.C.

7. It is now well settled by many judgments of the Hon'ble Supreme Court that FIRs even in respect of those offences which are not compoundable under section 320 Cr.P.C. can be quashed as also the criminal proceedings emanating therefrom if it is felt by the Court while dealing with a quashing petition under section 482 Cr.P.C. that it would secure the ends of justice if the FIR and criminal proceedings arising therefrom are quashed and continuation of the criminal proceedings would amount to abuse of the process of law. Reference in this regard can be made to one of the judgments of Hon'ble Supreme Court which is reported in "***B.S.Joshi & Ors. Vs. State of Haryana & Anr.", AIR 2003 SC 1386*** wherein it has been so held by the Hon'ble Supreme Court. Similarly in the case ***(2007 (2) Crimes 329)*** relied upon by the counsel for the petitioner criminal case pending in the Court for the offences punishable under Sections 418/409/166 I.P.C. was quashed because of the settlement between the complainant Trust and the accused persons. The offence under Section 409 I.P.C. is punishable with imprisonment which can be for life also. Still, the FIR was quashed. Even in the judgments of this Court, cited by the counsel for the petitioner, FIRs for the offences of cheating, forgery etc. were quashed in view of the settlement between the complainants and the accused persons. In another case decided by a learned Single Judge of this Court, which is reported as ***2006 (2) JCC 1127 "Sanjay Goel & Ors. v. The State"*** FIR and the criminal proceedings emanating therefrom even in respect of an offence punishable under Section 467 I.P.C., for which offence also even life imprisonment

can be awarded, were quashed since the complainant and the accused had amicably compromised the matter. Therefore, in the present two cases also the FIRs and the criminal proceedings arising therefrom deserve to be quashed because of the settlement between the complainant and the accused which would secure the ends of justice and continuation of the criminal proceedings against the accused would amount to abuse of process of law.

8. In view of the foregoing, I allow these petitions and consequently FIR nos. 404/2002 and 405/2002 for the offences under Sections 403/406/420/467/468/471/477A/120B/34 I.P.C. registered at Adarsh Nagar Police Station on 28.10.2002 and the criminal proceedings emanating therefrom stand quashed in respect of both the charge-sheeted accused.

P.K.BHASIN, J

November 26, 2007

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